

HOUSE No. 1711

By Mr. Connolly of Everett, petition of Edward G. Connolly and others relative to veterans' agents and veterans' benefits. Veterans and Federal Affairs.

The Commonwealth of Massachusetts

PETITION OF:

Edward G. Connolly	Kathi-Anne Reinstein
Louis L. Kafka	James B. Eldridge
William C. Galvin	James R. Miceli
Peter V. Kocot	Anne M. Gobi
Paul J. Donato	Michael F. Rush
Bruce E. Tarr	Thomas M. McGee

In the Year Two Thousand and Five.

AN ACT RELATIVE TO VETERAN'S AGENTS AND VETERANS' BENEFITS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 115 of the General Laws, as
2 appearing in the 2000 Official Edition, is hereby amended by
3 striking out, in lines 52 through 57, the definition of "Veterans'
4 agent" or "Part-time veterans' agent" and inserting in place
5 thereof the following:—
6 "Full-time Veterans' Service officer" shall mean a veteran, as
7 defined in clause Forty-third of section 7 of chapter 4, appointed
8 under section 3 of this chapter to disburse benefits to a city, town
9 or district, and who is a resident of the Commonwealth, and
10 trained and certified by the department of veterans' services in
11 accordance with regulations published pursuant to this chapter and
12 who works the regular hours full-time employees in the city, town
13 or district wherein he is employed but not less than thirty-five
14 hours per week performing the duties of the veterans' service
15 officer.

16 “Part-time Veterans’ Service officer” shall mean a veteran, as
17 defined in clause Forty-third of section 7 of chapter 4, appointed
18 under section 3 of this chapter to disburse benefits, and who is a
19 resident of the Commonwealth, and is trained and certified by the
20 department of veterans’ services in accordance with regulations
21 published pursuant to this chapter and who works such hours as
22 are necessary to carry out his responsibilities under this chapter
23 during those regular hours the town hall and the office of the
24 department of veterans’ services are open in the city or town
25 where he is employed.

1 SECTION 2. Section 2 of chapter 115 of the General Laws, as
2 appearing the 2000 Official Edition, is hereby amended by
3 striking out in line 1, the word “agents” and inserting in place
4 thereof the words:— service officers.

1 SECTION 3. Said section 2 of chapter 115 of the General
2 Laws, as so appearing, is hereby further amended by striking the
3 third paragraph and inserting in place thereof the following:—
4 Any person aggrieved by a decision of the commissioner’s
5 operations’ division, or by the failure of a city, town or district to
6 render adequate veterans’ benefits or to approve or reject an appli-
7 cation for veterans’ benefits within three days of receiving such
8 application, or aggrieved by the withdrawal of such benefits, shall
9 have the right to appeal to the commissioner’s department for an
10 administrative hearing. The right to a hearing shall be exercised
11 by filing a written appeal with the department within 21 calendar
12 days of receipt of notice of said decision, action or failure to act of
13 which the party is aggrieved. The hearing shall be conducted in
14 accordance with the provisions of chapter 30A. Any person
15 aggrieved by such an administrative decision, shall have a right to
16 appeal within ten days of receipt of written notice, to the division
17 of administrative law appeals established within the executive
18 office of administration and finance pursuant to section four H of
19 chapter seven, hereinafter in this section referred to as “the divi-
20 sion”. A hearing on such appeal held pursuant to this paragraph
21 shall be conducted as an adjudicatory proceeding under chapter
22 30A. The division shall issue its decision within ninety days after
23 the day of the filing of the appeal, except that when an aggrieved

24 person appeals the rejection of his application for veterans' bene-
25 fits or the failure to act on said application or the failure of a city
26 or town to render assistance to meet an emergency or hardship sit-
27 uation, the division shall render and issue its decision within
28 forty-five days after the date of filing of said appeal. The decision
29 of the division shall be subject to judicial review in accordance
30 with the provisions of chapter 30A. The time for commencing
31 such an action for judicial review shall run from the receipt of
32 notice of the decision of the division. In such an action for judicial
33 review, the record shall consist of (a) the entire proceedings
34 before the division of administrative law appeals or (b) such por-
35 tions thereof as the commissioner and the parties may stipulate, or
36 (c) a statement of the case agreed to by the commissioner and the
37 parties.

1 SECTION 4. Said section 2 of said chapter 115, as so
2 appearing, is hereby further amended by deleting the fourth para-
3 graph and inserting in place thereof the following:

4 Upon the written request of any mayor of a city or the
5 selectmen of a town, or upon the written request of a veterans'
6 service officer or director of veterans' services, or based upon an
7 allegation made by any five veterans or dependents, or based upon
8 any independent finding by the department that warrants an inves-
9 tigation, the commissioner shall investigate any matter relating to
10 the administration therein of the provisions of this chapter and the
11 expenses of such investigation shall be certified by him to the
12 state treasurer who shall collect the same as an additional tax upon
13 such city, town or district.

1 SECTION 5. Said section 2 of said chapter 115, as so
2 appearing, is hereby further amended by striking out in lines 71
3 and 78, the word "agent" and "agents", respectively, and inserting
4 in place thereof the words:— service officer.

1 SECTION 6. Section 2A of chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended in striking out said
3 section and inserting in place thereof the following:—

4 If the department's administrative hearing officer decides a
5 controversy between an applicant and a veterans' service officer

6 relative to the validity or amount of a claim for veterans' benefits,
7 as provided in section two, in favor of the applicant, said veterans'
8 service officer shall, forthwith, make payment to the applicant in
9 accordance with said decision notwithstanding any appeal there-
10 from by the veterans' service officer. If the division of administra-
11 tive law appeals sustains the appeal of said veterans' service
12 officer as to the validity of such claim, payment to the applicant
13 shall thereupon cease and all amounts paid to the applicant shall
14 be reimbursed by the commonwealth in the manner provided in
15 section six. If the division of administrative law appeals sustains
16 the appeal of said veterans' service officer as to the amount of
17 such claim, payment to the applicant of any amount in excess of
18 the amount approved by the division of administrative law appeals
19 shall thereupon cease and all amounts paid to the applicant in
20 excess of the amount so approved shall be reimbursed by the com-
21 monwealth in the manner provided by said section six.

22 The decision of the department's administrative hearing officer,
23 in accordance with the provisions of said section two, may be
24 enforced by the superior court on a petition in equity.

1 SECTION 7. Section 3 of said chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by deleting the first
3 paragraph and inserting in place thereof the following:—

4 The mayor of each city, except Boston, and the selectmen of
5 each town, shall appoint a veterans' service officer to act for him
6 or them in the disbursement of veterans' benefits by such city or
7 town; provided, however, that in each town having a part-time
8 veterans' service officer the town clerk shall receive applications
9 and assist applicants for veterans' benefits, and shall submit said
10 applications to the veterans' services officer. Two or more con-
11 tiguous towns may, by vote of the selectmen, and subject to the
12 approval of the commissioner, appoint one full-time veterans
13 service officer and such additional staff as necessary, and may
14 apportion the payment of compensation among such towns. Two
15 or more non-contiguous towns, may, subject to approval of the
16 commissioner, appoint one full-time veterans service officer and
17 such additional staff as necessary, and may apportion the payment
18 of compensation among such towns.

19 The appointment of a veterans' service officer shall not create a
20 civil service position. Any person who is appointed to the position
21 of veterans' service officer and certified by the Massachusetts
22 Department of Veterans' Services as a trained veterans' service
23 officer, and who has held such position for not less than three
24 years, shall not be involuntarily separated and shall have the same
25 rights and protection granted to any veteran under section 9A of
26 chapter 30 of the General Laws, notwithstanding that his or her
27 prior appointments were for a fixed term. Any local charter or by-
28 law contrary to these provisions and contrary to chapter 115 as it
29 exists prior to the effective date of the enactment of this law, shall
30 govern.

1 SECTION 8. Said section 3 of said chapter 115, as so
2 appearing, is hereby further amended by striking out in lines 10,
3 14, 18, 20, 22, the word "agent" and inserting in place thereof the
4 words:— service officer.

1 SECTION 9. Section 4 of said chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out in lines
3 10, and 15 the word "agent" and inserting in place thereof the
4 words:— service officer.

1 SECTION 10. Section 5 of said chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out the first
3 paragraph and inserting in place thereof the following:—
4 Veterans' benefits shall be paid to a veteran or dependent by the
5 city or town wherein he resides.

1 SECTION 11. Said section 5 of said chapter 115, as so
2 appearing, is hereby further amended by striking out in lines 29,
3 57, 60, 69, and 85, the word "agent" and inserting in place thereof
4 the words:— service officer.

1 SECTION 12. Said section 5 of chapter 115, as so appearing, is
2 hereby further amended by striking out in line 44, the word "idle-
3 ness" and inserting in place thereof the word:— unemployment.

1 SECTION 13. Said section 5 of chapter 115, as so appearing, is
2 further amended by striking out in line 44, the words “continuous
3 vicious habits” and inserting in place thereof the words:—
4 unwholesome habits.

1 SECTION 14. Said section 5 of chapter 115, as so appearing, is
2 hereby further amended by striking out in line 103, the word
3 “budget” and inserting in place thereof the following words:—
4 schedule of benefits.

1 SECTION 15. Section 5A of chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out in lines
3 5, 25, 42, and 48 the word “agent” and inserting in place thereof
4 the words:— service officer.

1 SECTION 16. Section 6 of chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out in line
3 13, the word “agent” and inserting in place thereof the words:—
4 service officer.

1 SECTION 17. Section 7 of chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out in line 2,
3 the word “agent” and inserting in place thereof the words:—
4 service officer.

1 SECTION 18. Section 10 of chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out in line 16
3 the word “Two” and inserting in place thereof the following:—
4 Subject to the commissioner’s approval, two.

1 SECTION 19. Section 15 of chapter 115, as so appearing, is
2 hereby amended by striking out in lines 1 and 2 the words
3 “department of corporation and taxation” and inserting in place
4 thereof the words:— department of revenue.